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11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 MATRIX INTERNATIONAL TEXTILE,
15 INC., a California Corporation,

16 Plaintiff,

17 v.

18 KAKTUS SPORTSWEAR, INC., a New
19 Jersey Corporation; STEINMART, INC., a
20 Florida Corporation; and DOES 1 through
21 10,

22 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

1 Matrix International Textile, Inc., by and through its undersigned attorneys,
2 hereby prays to this honorable Court for relief based on the following:

3 **JURISDICTION AND VENUE**

4 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
5 *et seq.*

6 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
7 1338 (a) and (b).

8 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
9 1400(a) in that this is the judicial district in which a substantial part of the acts and
10 omissions giving rise to the claims occurred.

11 **PARTIES**

12 4. Plaintiff MATRIX INTERNATIONAL TEXTILE, INC. is a corporation
13 organized and existing under the laws of the State of California with its principal
14 place of business located at 3270 East 26th Street, Vernon, California 90023.

15 5. Plaintiff is informed and believes and thereon alleges that Defendant
16 KAKTUS SPORTSWEAR, INC. (“KAKTUS”) is a corporation organized and
17 existing under the laws of the state of New Jersey, with its principal place of
18 business located at 390 Starke Road #3 Carlstadt, New Jersey 07072, and is doing
19 business in and with California.

20 6. Plaintiff is informed and believes and thereon alleges that Defendant STEIN
21 MART, INC. (“STEINMART”) is a corporation organized and existing under the
22 laws of the state of Florida, with its principal place of business located at 1200
23 Riverplace Blvd. Jacksonville, Florida 32207 and is doing business in and with the
24 state of California.

25 7. Plaintiff is informed and believes and thereon alleges that Defendants
26 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed
27 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,
28

1 or have engaged in one or more of the wrongful practices alleged herein. The true
2 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
3 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
4 by such fictitious names, and will seek leave to amend this Complaint to show their
5 true names and capacities when same have been ascertained.

6 8. Plaintiff is informed and believes and thereon alleges that at all times
7 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
8 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
9 at all times acting within the scope of such agency, affiliation, alter-ego relationship
10 and/or employment; and actively participated in or subsequently ratified and/or
11 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
12 circumstances, including, but not limited to, full knowledge of each violation of
13 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

14 **CLAIMS RELATED TO DESIGN NO. MX2221E**

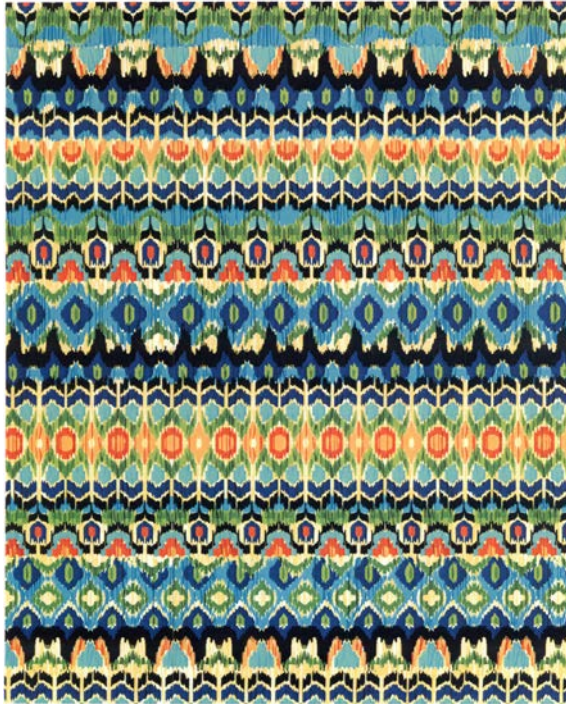
15 9. Plaintiff owns an original two-dimensional artwork used for purposes of
16 textile printing entitled MX2221E ("Subject Design") which has been registered
17 with the United States Copyright Office.

18 10. Prior to the acts complained of herein, Plaintiff widely disseminated fabric
19 bearing Subject Design to numerous parties in the fashion and apparel industries.

20 11. Plaintiff is informed and believes and thereon alleges that following its
21 distribution of Subject Design, STEINMART, KAKTUS, DOE Defendants, and
22 each of them distributed and/or sold fabric and/or garments featuring a design which
23 is substantially similar to Subject Design (hereinafter "Subject Product") without
24 Plaintiff's authorization, including but not limited to products sold by STEINMART
25 under SKU 56002066 and bearing label "klozlyne" and RN 93771, indicating that it
26 was manufactured by or for KAKTUS.

1 12. An image of Subject Design and an exemplar of Subject Product are set
2 forth hereinbelow:

3
4 **Subject Design**



Subject Product



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

13. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of Subject Designs by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments in the marketplace manufactured with lawfully printed fabric bearing Subject Design.

15. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s), and each of them, has an ongoing business relationship with Defendant retailers, and each of them, and supplied garments to said retailers, which garments infringed Subject Designs in that said garments were composed of fabric which featured unauthorized print designs that were identical or substantially similar to Subject Designs, or were an illegal modification thereof.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making and/or developing directly infringing and/or derivative works from Subject Designs and by producing, distributing and/or selling Subject Products through a nationwide network of retail stores, catalogues, and through on-line websites.

17. Due to Defendants', and each of their, acts of infringement, Plaintiff has

1 suffered damages in an amount to be established at trial.

2 18. Due to Defendants', and each of their, acts of copyright infringement as
3 alleged herein, Defendants, and each of them, have obtained profits they would not
4 otherwise have realized but for their infringement of Subject Designs. As such,
5 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
6 attributable to the infringement of Subject Designs in an amount to be established at
7 trial.

8 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
9 each of them, have committed copyright infringement with actual or constructive
10 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
11 and continue to be, willful, intentional and malicious.

12 **PRAYER FOR RELIEF**

13 Wherefore, Plaintiff prays for judgment as follows:

- 14 a. That Defendants—each of them—and their respective agents and
15 servants be enjoined from importing, manufacturing, distributing,
16 offering for sale, selling or otherwise trafficking in any product that
17 infringes Plaintiff's copyrights in Subject Designs;
- 18 b. That Plaintiff be awarded all profits of Defendants, and each of them,
19 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
20 or, if elected before final judgment, statutory damages as available under
21 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 22 c. That Plaintiff be awarded its attorneys' fees as available under the
23 Copyright Act U.S.C. § 101 et seq.;
- 24 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 25 e. That Plaintiff be awarded the costs of this action; and
- 26 f. That Plaintiff be awarded such further legal and equitable relief as the
27 Court deems proper.

1 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
2 38 and the 7th Amendment to the United States Constitution.

3 Dated: December 16, 2015

DONIGER/BURROUGHS

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5 By: /s/ Stephen M. Doniger
6 Stephen M. Doniger, Esq.
7 Frank Gregory Casella, Esq.
8 Attorneys for Plaintiff
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